

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION

JAMES E. JENNINGS

Plaintiff

vs.

AMERICAN FAMILY INSURANCE, A/K/A
AMERICAN FAMILY INSURANCE GROUP,
AMERICAN FAMILY MUTUAL INSURANCE
COMPANY, AMERICAN FAMILY LIFE
INSURANCE COMPANY, AND AMERICAN
STANDARD INSURANCE COMPANY OF
WISCONSIN

Defendants

CAUSE NO. 3:14-CV-74-RLY-WGH

COMPLAINT

Comes now the Plaintiff, James E. Jennings, by counsel, Mark K. Phillips, and, for his Complaint against the Defendants, American Family Insurance, a/k/a American Family Insurance Group, American Family Mutual Insurance Company, American Family Life Insurance Company, and American Standard Insurance Company of Wisconsin, respectfully shows the Court as follows:

I.

PARTIES

1. The Plaintiff, James E. Jennings, is a resident of Newburgh, Warrick County, Indiana.
2. "American Family Insurance" a/k/a American Family Insurance Group is a private mutual company which provides services to customers in Arizona, Colorado, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Nebraska, Nevada, North Dakota, Ohio, Oregon, South Dakota, Utah, Washington and Wisconsin.
3. The Defendants, American Family Life Insurance Company, American Family Mutual Insurance Company and American Standard Insurance Company, are subsidiaries of American Family Insurance.
4. The Defendants, American Family Life Insurance Company, American Family Mutual Insurance Company and American Standard Insurance Company, are licensed to do business within the State of Indiana, in accordance with the laws of the State of Indiana.

5. American Family Insurance corporate headquarters is located at 6000 American Parkway, Madison, Wisconsin 53783.
6. The Plaintiff was employed by the Defendants, and worked out of Defendants' office located at 8988 C. Ruffian Lane, Newburgh, Warrick County, Indiana.

II.

JURISDICTION

1. This Complaint is brought pursuant to the Americans with Disabilities Act (42 U.S.C. § 12101), and jurisdiction is based on 28 U.S.C. § 1331.

III.

GENERAL ALLEGATIONS

1. The Plaintiff was employed by the Defendants from approximately July 1, 2003, until May 13, 2013, when his employment was terminated.
2. The cited reason for Plaintiff's termination was below minimum product.
3. The explanation for Plaintiff's termination was pretext, and the actual basis of Plaintiff's termination was ill health and advancing disability.
4. The Plaintiff suffers from MRSA (Methicillin-resistant Staphylococcus aureus) and hepatic cirrhosis.
5. The Plaintiff's employment was wrongfully terminated, and in violation of the Americans with Disabilities Act of 1990.
6. The Plaintiff filed a complaint with the U.S. Equal Employment Opportunity Commission, and a Right to Sue Notice was issued on February 26, 2014 (a copy of which is attached hereto as Exhibit "A").

IV.

PRAYER FOR RELIEF

The Plaintiff, James E. Jennings, is entitled to the following:

1. Reinstatement;
 2. Wages, salary and fringe benefits;
 3. Punitive Damages;
 4. Attorney Fees; and
 5. All other appropriate relief in the premises.
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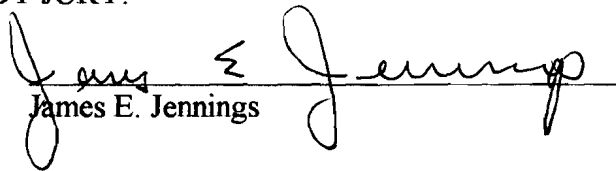
V.

AFFIRMATION OF PLAINTIFF

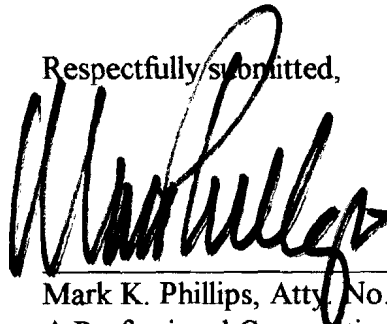
I, James E. Jennings, do affirm that I have read all of the statements contained in this Complaint and that I believe them to be, to the best of my personal knowledge, true and correct.

Signed this 26 day of May, 2014.

PLAINTIFF REQUESTS TRIAL BY JURY.


James E. Jennings

Respectfully submitted,



Mark K. Phillips, Atty. No. 16941-49
A Professional Corporation
114 S. Third Street
P.O. Box 427
Boonville, Indiana 47601
Telephone: (812) 897-4400
Fax: (812) 897-4451
Email: markphillipslawyer@yahoo.com

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **James E. Jennings**
5377 Park Dr
Newburgh, IN 47630

From: **Indianapolis District Office**
101 West Ohio St
Suite 1900
Indianapolis, IN 46204



On behalf of person(s) aggrieved whose identity is
 CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

846-2013-43973

Randy G. Poynter,
Enforcement Supervisor

(317) 226-5670

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

No Jurisdiction, No Employee/Employer Relationship

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

Webster N. Smith,
Director

FEB 26 2014

Enclosures(s)

(Date Mailed)

cc:

James Jennings
Owner
AMERICAN FAMILY INSURANCE
8988 C Ruffian Lane
Newburgh, IN 47630

Enclosure with EEOC
Form 161 (11/09)

INFORMATION RELATED TO FILING SUIT UNDER THE LAWS ENFORCED BY THE EEOC

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA), the Genetic Information Nondiscrimination Act (GINA), or the Age Discrimination in Employment Act (ADEA):

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit **before 7/1/10** -- not 12/1/10 -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.